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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,309	09/25/2001	Ryo Niitsuma	116692000900	6767

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MORRISON & FOERSTER LLP  
2000 Pennsylvania Ave, NW  
Suite 5500  
Washington, DC 20006-1888

EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT PAPER NUMBER

2145

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/961,309

Applicant(s)

NIITSUMA ET AL.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. This case has been reassigned to a new examiner.

***Response to Arguments***

2. The amendment to claim 17 has overcome the rejection of claim 17 under 35 U.S.C. 101.
3. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 5-6 and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. The term "high and low levels" in claims 5-6 and 13-14 is a relative term which renders the claim indefinite. The term "high and low levels" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is understood that a hierarchical structure or tree would have different levels of categorization. However, the usage of the term "high and low levels" leaves great ambiguity, and one of ordinary skill in the art is unable to determine what acceptable level of categorization is referred to in the invention.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hess et al. (U.S. Patent No. 6,058,417).

9. In regard to claim 1, Hess disclosed the storing of information, or listings, for objects or items being sold on an Internet website such as Ebay. (Hess, column 1, lines 16-67). A database existed of information included for items being sold, along with item information and pictures. (Hess, column 5, lines 4-24). Geographical information was provided about the item, along with title and other information. (Hess, column 7, lines 15-32). The items were displayed over the Internet using a predefined page format, or Gallery template, or *selected template*. (Hess, column 9, lines 10-11). Hess failed to explicitly disclose that real estate could be sold using a system akin to Ebay. However, it would have been obvious to one of ordinary skill in the art at the time of the invention that any good, commodity, or real estate property could have been sold with the system presented by Hess in order to achieve commercial success through real estate transaction and to allow consumers to more easily see what items/properties are available to purchase.

10. In regard to claim 2, Hess is applied as in claim 1. Hess further disclosed including a plurality of items (column 9, lines 12-15) being stored in a database, displaying multiple items of information (pictures, title, and item information), and displaying information in a list format (column 9, lines 12-15).

11. In regard to claim 3, Hess is applied as in claim 1. Hess further disclosed the storage of multiple items of information (column 9, lines 12-15), a plurality of templates and a template selector (column 5, lines 20-24 presented a user selected text or photo mode for creating a listing management which generates appropriate HTML for the listing format selected by the user. Hess defined the Gallery photo format referred to in column 5 as a template in column 9, lines 10-11.), an information selector which selects item information in response to a query by a user (column 9, lines 1-9), and incorporating the item information into the template (column 9, lines 16-45).

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12. In regard to claim 4, Hess is applied as in claim 2. The additional limitations of claim 4 are outlined in the rejection of claim 3, which is duly applied against claim 4.

13. In regard to claim 5, Hess is applied as in claim 3. As expressly suggested in the prior art of Figure 1 of Hess, a hierarchical structure of web pages was created in Hess. The pages were linked as shown in the top scroll bar "Top: Antiques: Folk Art", which is a hierarchical structure with linking information between high and low levels of the hierarchical structure. The display of these levels was a *tree corresponding to the hierarchical structure of the Web pages represented by the linking information stored in the memory*. The application of Figure 1 to Hess shows that all pages in said structure were created by the Hess invention.

14. In regard to claim 6, Hess is applied as in claim 4. The additional limitations of claim 6 are outlined in the rejection of claim 5, which is duly applied against claim 6.

15. In regard to claim 7, Hess is applied as in claim 5. Hess further disclosed the image information was a URL address (column 7, lines 40-65; column 8, lines 4-35) and that images were stored after being downloaded based upon said URL address. (column 7, lines 40-65; column 8, lines 4-35)

16. In regard to claim 8, Hess is applied as in claim 6. The additional limitations of claim 8 are outlined in the rejection of claim 7, which is duly applied against claim 8.

17. Claim 9 has substantially the same limitations as claim 1.

18. Claim 10 has substantially the same limitations as claim 2.

19. Claim 11 has substantially the same limitations as claim 3.

20. Claim 12 has substantially the same limitations as claim 4.

21. Claim 13 has substantially the same limitations as claim 5.

22. Claim 14 has substantially the same limitations as claim 6.

23. Claim 15 has substantially the same limitations as claim 7.

24. Claim 16 has substantially the same limitations as claim 8.

25. Claim 17 has substantially the same limitations as claim 1.

### **Conclusion**

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26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fisher	U.S. Patent No. 6,411,960
Moriya	U.S. Patent No. 6,085,219
Hess et al.	U.S. Patent No. 6,415,320
Jensen et al.	U.S. Patent No. 6,834,276
Allen et al.	U.S. Patent No. 6,807,570
Hess et al.	U.S. Patent No. 6,732,161
Fuselier et al.	U.S. Patent No. 6,920,495
Philyaw et al.	U.S. Patent No. 6,826,592
Herz	U.S. Patent No. 6,460,036

Jung, Younghee et al. "Design of a Social Interaction Environment for Electronic Marketplaces." Proceedings of the conference on Designing interactive systems: processes, practices, methods, and techniques. ACM Press. New York City, New York. pp. 129-136. August 2000.

"eBay Introduces Expanded Real Estate Category; Announces Agreement with zipRealty.com". eBay press release. August 3, 2000. <http://www.ebay.com>

"eBay and AutoTrader.com Create Internet's Largest Auction-Style Marketplace for Used Cars". eBay press release. March 7, 2000. <http://www.ebay.com>

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

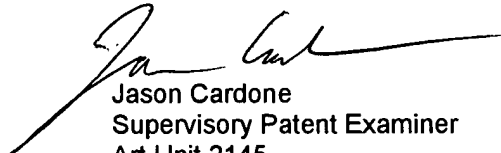
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason Cardone  
Supervisory Patent Examiner  
Art Unit 2145